Datatreasury Corporation v. Wells Fargo & Company et al Doc. 446

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORATION, **Plaintiff** **v.** **WELLS FARGO & COMPANY, et al.** **Defendants**	**2:06-CV-72 DF**

DEFENDANTS ZIONS BANCORPORATION'S AND ZIONS FIRST NATIONAL BANK'S NOTICE OF ACCEPTANCE OF STIPULATION REQUIRED FOR STAY

The Court, having considered the parties' briefing and oral argument, ordered (Docket No. 411) that this case be stayed in its entirety in light of developments in the *ex parte* reexamination initiated by First Data Corporation (hereafter "petitioner") of the patents in suit. As a required condition of the Court's stay, the Defendants Zions Bancorporation and Zions First National Bank (collectively "Zions") hereby notify the Court that they accept the following stipulation and the concomitant stay of all proceedings:

> As a condition of the stay, Defendants may not argue invalidity at trial based on one or more prior art printed publications that were submitted by the petitioner in the reexamination proceedings. However, Defendants will be permitted to rely for obviousness on the combination of a printed publication reference that was submitted by petitioner in the reexamination with prior art that was not so submitted.

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Zions further notes that they will work with Plaintiff in this matter to keep the Court apprised of developments in the reexamination which may impact the ordered stay. This stipulation modifies and replaces Zions' stipulation dated November 3, 2006 (Docket No. 345), in light of, and to conform with, the Court's Order (Docket No. 411).[1]

Dated: January 24, 2007

Respectfully submitted,

/s/ Anthony H. Son

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[1] Counsel for Zions met and conferred with Counsel for DataTreasury on January 19, 2007 and was informed that DataTreasury does not oppose Zions modifying and replacing its prior stipulation (Docket No. 345) with this stipulation to conform the Court's Order (Docket No. 411).

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2007, all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing instrument via the Court's CM/ECF filing system per Local Rule CV-5(a)(3).

/s/ Anthony H. Son
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